

ENTERED

January 07, 2021

Nathan Ochsner, Clerk

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

ERIN McCAIN-TOWNLEY	§	CIVIL ACTION NO.
and MARC A. TOWNLEY,	§	4:20-cv-00379
Plaintiffs,	§	
	§	
	§	
vs.	§	JUDGE CHARLES ESKRIDGE
	§	
	§	
HSBC BANK USA NA,	§	
Defendant.	§	

**ORDER ADOPTING
MEMORANDUM AND RECOMMENDATION**

This case involves claims by Plaintiffs Erin McCain-Townley and Marc A. Townley for breach of contract and defamation. See Dkt 1-1 at 11–12. Plaintiffs filed their original complaint in Harris County Justice of the Peace Court Precinct 5, Place 1. Id at 8. Defendant HSBC Bank USA, NA removed. Dkt 1. Plaintiffs filed an amended complaint on that same day in state court, adding First Financial Asset Management, Inc as a defendant. See Dkt 8 at 6–14.

Plaintiffs proceed here *pro se*. They moved to remand. Dkt 8. The case was referred for disposition to Magistrate Judge Sam Sheldon. Dkt 20. He recommended that the motion to remand be denied. Dkt 24.

Plaintiffs filed an objection. Dkt 25. They contend that the Magistrate Judge erred in determining that First Financial wasn't required to consent to removal because it hadn't yet been served. Dkt 25 at 1–3. HSBC Bank filed a response. Dkt 29.

The district court conducts a *de novo* review of those conclusions of a magistrate judge to which a party has specifically objected. See 28 USC § 636(b)(1)(C); *United States v Wilson*, 864 F2d 1219, 1221 (5th Cir 1989). To accept any other portions to which there is no objection, the reviewing court need only satisfy

itself that no clear error appears on the face of the record. See *Guillory v PPG Industries Inc*, 434 F3d 303, 308 (5th Cir 2005), citing *Douglass v United Services Automobile Association*, 79 F3d 1415, 1420 (5th Cir 1996); see also FRCP 72(b) Advisory Comm Note (1983).

The Court has reviewed *de novo* the objection made by Plaintiffs. The objection lacks merit. Disposition of the issue is clearly controlled by authority cited in the Memorandum and Recommendation. For example, see 28 USC §§ 1441(b), 1446(b)(2)(A); Tex Rule Civ Proc 106(a)(2); *Hollister v Palmer Independent School District*, 958 SW2d 956, 959 (Tex App—Waco 1998, no pet). The Court has otherwise considered the Memorandum and Recommendation and reviewed the pleadings, the record, the applicable law, and the response. No clear error appears.

The Memorandum and Recommendation of the Magistrate Judge is ADOPTED as the Memorandum and Order of this Court. Dkt 24.

The motion to remand by Plaintiffs Erin McCain-Townley and Marc A. Townley is DENIED. Dkt 8.

SO ORDERED.

Signed on January 7, 2021, at Houston, Texas.

A handwritten signature in black ink, reading "Ch R Eskridge II". The signature is stylized with a large "C" and "E", and a Roman numeral "II" at the end.

Hon. Charles Eskridge
United States District Judge